

FILED
UNITED STATES DISTRICT COURT
ALBUQUERQUE, NEW MEXICO

OCT 21 2020

CLAYTON W WHITEHEAD

Full Name/Prisoner Number

185 DR MICHAEL JENKINSCLAYTON NM 88415 or PO BOX 155 Tularosa NM 88352

Complete Mailing Address

MITCHELL R. ELFERS

CLERK (m)

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICOCivil Action No. 20cv1087 KWR/KK
(To be supplied by the Court)CLAYTON WADE WHITEHEAD 83771

, Plaintiff(s),

Full name(s) and prisoner number(s)
(Do not use *et al.*)

v.

TIMOTHY GARCIA - OTERO COUNTY DETENTION
CENTER

, Defendant(s).

(Do not use *et al.*)PRISONER'S CIVIL RIGHTS COMPLAINTA. PARTIES AND JURISDICTION1. CLAYTON W WHITEHEAD is a citizen of NEW MEXICO who
(Plaintiff) (State)presently resides at 185 DR MICHAEL JENKINS, CLAYTON NM 88415
(mailing address or place of confinement)2. Defendant TIMOTHY GARCIA is a citizen of NEW MEXICO
(name of first defendant) (State)whose address is 1958 DR MIKE JR
ALBUQUERQUE NM 88310and who is employed as C.O. OTERO COUNTY DETENTION CENTER At the time the claim(s)
(title and place of employment)

alleged in this complaint arose, was this defendant acting under color of state law?

☒ Yes ☐ No. If your answer is "Yes," briefly explain:

3. Defendant OTERO, COUNTY DETENTION CENTER is a citizen of N.M.
 (name of second defendant) (State)

whose address is 1158 DR MIKJR DRIVE ALAMO GORDO 88310

and who is employed as _____ . At the time the claim(s)
 (title and place of employment)

alleged in this complaint arose, was this defendant acting under color of state law?
☒ Yes ☐ No. If your answer is "Yes," briefly explain:

(If more space is needed to furnish the above information for additional defendants, continue on a blank sheet which you should label "A. PARTIES." Be sure to include each defendant's complete address and title.)

(CHECK ONE OR BOTH:)

Jurisdiction is asserted pursuant to 42 U.S.C. § 1983 (for state defendants) or *Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971) and 28 U.S.C. § 1331 (for federal defendants).

Jurisdiction also is invoked pursuant to 28 U.S.C. § 1343(a)(3). (If you wish to assert jurisdiction under different or additional statutes, you may list them below.)

B. NATURE OF THE CASE

BRIEFLY state the background of your case.

I the defendant was exposed to a
won ton excessive use of force in violation to THE 8th Amendment
and the 14th Amendment. when officer Timothy, Garcia very forcefully kicked
me even after complying with his orders. See Aditinal page

C. CAUSE OF ACTION

I allege that the following of my constitutional rights, privileges, or immunities have been violated and that the following facts form the basis of my allegations: (If more space is needed to explain any allegation or to list additional supporting facts, continue on a blank sheet which you should label "D. CAUSE OF ACTION.")

Claim I: I Clayton W Whitehead was exposed to won ton
excessive use of force, cruel and unusual punishment
in violation to the 8th Amendment and 14th Amendment

Claim III: _____

Supporting Facts: _____

D. PREVIOUS LAWSUITS AND ADMINISTRATIVE RELIEF

1. Have you begun other lawsuits in state or federal court dealing with the same facts involved in this action or otherwise relating to the conditions of your imprisonment? ☒ Yes ☐ No. If your answer is "Yes," describe each lawsuit. (If there is more than one lawsuit, describe the additional lawsuits using this same format on a blank sheet which you should label "E. PREVIOUS LAWSUITS AND ADMINISTRATIVE RELIEF.")

a. Parties to previous lawsuit:

Plaintiff(s): CLAYTON W. WHITEHEAD.

Defendant(s): TIMOTHY GARCIA, OTERO COUNTY DETENTION CENTER

b. Name and location of court and docket number _____

c. Disposition of lawsuit. (For example, was the case dismissed? Was it appealed? Is it still pending?)

Still pending

d. Issues raised: Excessive use of force. Assault. Cruel unusual punishment

e. Approximate date of filing lawsuit: 11:07, 8/20/20 12th Judicial District Court

f. Approximate date of disposition: Still pending N/A

2. I previously have sought informal or formal relief from the appropriate administrative officials regarding the acts complained of in Part D. ☒ Yes ☐ No.

If your answer is "Yes," briefly describe how relief was sought and the results. I filed formal and informal complaint of the matter I was never answered or no remedy

3. I have exhausted available administrative remedies. ☒ Yes ☐ No. If your answer is "Yes," briefly explain the steps taken. Attach proof of exhaustion. If your answer is "No," briefly explain why administrative remedies were not exhausted. the proof of exhaustion is in

my Criminal case file of the charges I received in incident, James Walker was my Attorney in the Criminal case

Supporting Facts: (Include all facts you consider important, including names of persons involved, places, and dates. Describe exactly how each defendant is involved. State the facts clearly in your own words without citing legal authority or argument.)

Claim II: _____

Supporting Facts:

B. NATURE OF THE CASE

On, November 15, 2018, at The Otero county

Detention Center. 1958 Dr MLK JR Dr Martin Luther King JR
Alamogordo N.M. 88310 I was Assaulted by officer Timothy
Garcia. While being prepared for court. There is video
footage from the otero county detention center that shows
me being totally compliant and non combative. Officer
Garcia kicked my knee very forcefully after I told him I could
not spread my legs any wider. HE then took me to the ground
and TAZed me continuously for about 30 seconds. I never
gave officer Garcia any reason to do this to me. I suffered injuries
that were later that day Addressed. At the hospital
as well as extreme permanent damage done to my
legal record as well as extreme physical, mental
and emotional loss due to this incident. I believe
Timothy Garcia and otero county Detention center
Should be held accountable for my loss.

CLAIM I

On, November 15, 2018. At the Otero County Detention Center. 1958 Dr Martin Luther King JR Dr. Alamogordo N.M. 88310. I was assaulted by officer Timothy Garcia. while being prepared for court. There is video from the Otero County Detention Center that shows me being totally compliant and non combative. Officer Garcia kicked my left knee very forcefully after I told him I could not spread my legs any wider. After he kicked me he took me to the ground and Tazed me for about 30 seconds. I never gave officer Garcia any reason to do this to me. I suffered injuries that were later Addressed at the hospital. I also suffered sever damage to my criminal record as well as extreme physical, mental and emotional loss due to this incident. I believe Timothy Garcia and the Otero County Detention center should be held accountable for this loss.

E. PREVIOUSLY DISMISSED ACTIONS OR APPEALS

1. If you are proceeding under 28 U.S.C. § 1915, please list each civil action or appeal you have brought in a court of the United States while you were incarcerated or detained in any facility that was dismissed as frivolous, malicious, or for failure to state a claim upon which relief may be granted. Please describe each civil action or appeal. If there is more than one civil action or appeal, describe the additional civil actions or appeals using this same format on a blank sheet which you should label "F. PREVIOUSLY DISMISSED ACTIONS OR APPEALS."

a. Parties to previous lawsuit:

Plaintiff(s): CLAYTON W WHITEHEAD

Defendant(s): TIMOTHY GARCIA, GTERO COUNTY DETENTION CENTER

b. Name and location of court and docket number 12th Judicial Court GTERO COUNTY, 8/20/2020 11:02AM
D-1215-CV-2020-028

c. Grounds for dismissal: () frivolous () malicious () failure to state a claim upon which relief may be granted.

d. Approximate date of filing lawsuit: 8/20/2020

e. Approximate date of disposition: Still pending

2. Are you in imminent danger of serious physical injury? Yes ☒ No. If your answer is "Yes," please describe the facts in detail below without citing legal authority or argument.

G. REQUEST FOR RELIEF

I request the following relief: I am Requestin \$ 2,500,000⁰⁰ for damages
done to my Criminal record and to my physical, mental
and Emotional health.

Prisoner's Original Signature

Clayton Whitehead

Original signature of attorney (if any)

Attorney's full address and telephone

DECLARATION UNDER PENALTY OF PERJURY

The undersigned declares under penalty of perjury that he/she is the plaintiff in the above action, that he/she has read the above complaint and that the information contained in the complaint is true and correct. 28 U.S.C. § 1746; 18 U.S.C. § 1621.

Executed at MEMPHIS TENN 38415 on 10/13/2020
(location) (date)

Clayton Whitehead

Prisoner's Original Signature

Clayton W. Whitehead 83771
185 W Michael Jenkins Rd
Clayton NM. 88415

RECEIVED

UNITED STATES DISTRICT COURT
ALBUQUERQUE, NEW MEXICO

OCT 21 2020

MITCHELL R. ELLERS
CLERK

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U.S. District Court
333 Lomas Blvd, NW Ste. 270
Albuquerque, NM 87102

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10/19/2020
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